

**FUNERAL DIRECTORS EXAMINING BOARD MEETING
MINUTES
NOVEMBER 9, 2004**

PRESENT: Rick Unbehaun, Bonnie Gift, Rosalie Murphy, David Olsen, Connie Ryan, and J. C. Frazier (via telephone)

STAFF PRESENT: Jerry Lowrie, Bureau Director; Jacquelynn Rothstein, Legal Counsel; Pat Schenck, Program Assistant; and Division of Enforcement Staff

GUESTS: Joseph Schinkten, and Patrick Essie, Funeral Service Alliance of Wisconsin
Barbara Schuler, WI Technical College System
Mark Paget, Wisconsin Funeral Directors Association

CALL TO ORDER

Rick Unbehaun, Chair, called the meeting to order at 9:34 a.m. A quorum of six members was present.

Mr. Unbehaun introduced Rosalie Murphy as the new public member on the Funeral Directors Examining Board. Introductions went around the table with each member giving a brief background on their professional experience.

AGENDA

Additions to Agenda:

- Additional items to Item 17. Monitoring
 - 17. a. i. Juan R. Barquet
 - 17. a. ii. Chiketa Henderson
- Add one item to Pending Applications
 - 17. e. ii Gary Kimble
- Item 9. c. Peggy Peterson – DHFS regarding discussion of Form DPH 5043
- Removed “Other Such Items as Defined by Law”
- Delete Item # 7

MOTION: Bonnie Gift moved, seconded by David Olsen, to approve the agenda with amendments. Motion carried unanimously.

APPROVAL OF MINUTES JULY 20, 2004

Some corrections were made on spelling and punctuation.

MOTION: Bonnie Gift moved, seconded by David Olsen, to approve the minutes of July 20, 2004 with amendments. Motion carried unanimously.

**ADMINISTRATIVE REPORT
JERRY LOWRIE, BUREAU DIRECTOR
BOARD ROSTER**

Noted.

2005 MEETING DATES

The next meeting is February 8, 2005.

**SUMMARY REPORTS ON PENDING COURT CASES, DISCIPLINARY CASES AND
ADMINISTRATIVE RULES**

Noted.

CODE BOOK POLICY

Mr. Lowrie reported on the Departments new codebook policy. The Department will no longer be printing hard copies of the statute and administrative codebooks for the professions.

Customers will have three choices for getting the statutes and administrative codes:

1. Print statutes and administrative code from the Department's web site;
2. purchase a printed copy from Document Sales at a cost of \$15.00 for the smallest books, \$20.00 for the mid-sized books and \$25.00 for the larger books; or
3. purchase the entire code book on CD from Document Sales for approximately \$ 6.50.

These prices include shipping and handling.

LEGISLATIVE UPDATE/RECAP

SB 274/AB 559 Authorizing the Cremation of Human Remains

The Board discussed the status of Senate Bill 274/AB 559 Authorizing the Cremation of Human Remains. The Board requested that Senate Bill 274/AB 559 be re-introduced. The Bill did not make it through the Senate in the 2004 legislative session. The language in the Bill does not permit the deceased to determine whether they will be cremated, as the family has the final say regarding the deceased cremation wishes. Funeral Directors will follow the survivor's wishes.

MOTION: Connie Ryan moved, seconded by David Olsen, to request that Senate Bill 274/AB 559 be reintroduced in the next legislative session. Motion carried unanimously.

In the event that there should be an amendment to this Bill, Mr. Lowrie will schedule a telephone conference with the Board.

EMBALMING STANDARDS -HFS 136.03(2)

Ms. Rothstein reported that changes to HFS 136.03(2) are effective on December 1, 2004. A copy of the amended rule will be included in the Board's February 8, 2005 agenda packet.

CONTINUING EDUCATION ISSUES

Discussion of Qualified Courses for CE Credits

No discussion took place.

EXAMINATION ISSUES

Schedule Workshop to Review Jurisprudence Exam(s)- Gail Pizarro

Gail Pizarro met with the Board to discuss the Board reviewing and updating the funeral director's jurisprudence examination questions so the examination corresponds to any rule changes made after 1997. Ms. Pizarro discussed the various ways the Board could review the examination questions.

MOTION: Rick Unbehaun moved, seconded by Bonnie Gift, to nominate Connie Ryan as the Board's liaison to review jurisprudence examination questions. Motion carried unanimously.

PRACTICE ISSUES- LEGAL COUNSEL

Funeral Director Apprentice – William Linn Letter

The Board reviewed and discussed a letter submitted by William Linn regarding his concerns about funeral director apprentices.

Sales of Cemeteries in Wisconsin

Ms. Rothstein reported on the sale of cemeteries in Wisconsin and that the buyers were not funeral homes.

Discussion on Item # 17 on the "Notice of Removal of a Human Corpse" Form (DPH 5043-Rev 7/04)

Peggy Peterson, DHFS met with the Board to answer questions in regards to Form DPH – 5043, Notice of Removal of a Human Corpse from a Hospital/Nursing Home/Hospice (Rev. 07/04). Forms were changed to comply with the law.

The Board had questions regarding the first statement under "Item 17 Special Circumstances". The body is being removed by a family member. (*Per Wis. Stat. 69.18, if a family member*

removes a body, the family must personally make all arrangements for final disposition and cannot employ a funeral director to provide other services (including preparation of the Notice of Removal, Report for Final Disposition and Death Certificate.)

A family member removing a body must have a plan of action ahead of time for arrangements for final disposition. The Board feels that the statement under #17 is misleading the public and contradicts the law. There may be some changes in the law where hospice care workers will not have to be responsible for the removal of a body.

When families pick up a body to save money, the paper work may not be completed properly and there is a chance for fraud when a death is not reported properly.

MOTION: David Olsen moved, seconded by Rosalie Murphy, to direct that DHFS revise Form DPH 503 (Rev 07/04) item number 17 by striking information in parentheses and to add item b to indicate that if the family intends to prepare the body for final disposition they must be responsible for filing the death certificate, and other forms as required by law. Motion carried unanimously.

The Board will discuss whether Hospice made an amendment to the rule at their February 8, 2005 Board meeting.

Funeral Trust Transfer Question

If an individual has a funeral trust with one funeral home and wants to transfer the trust to another funeral home, can a funeral director call the party to ask why they are requesting a transfer? It is against the law for a funeral director to make a call to discourage the party from making the transfer, but asking the party the reason why they are requesting a transfer is not against the law.

A funeral director may not impede the inter vivos designation of a different beneficiary by withholding delivery of a passbook or other indicia of control over the funds, or by other behavior. Extending the release of funeral trust transfers beyond two weeks is not an acceptable timeframe.

Funeral Home & Crematory verses Funeral Home and Cremation Services Advertisements

The Board discussed the advertisement of *Funeral Home & Crematory* verses *Funeral Home and Cremation Services*. If a sign on the funeral home lists funeral home and crematory, does that imply that the crematory is on the premises, or do they only offer crematory services off the premises?

Ms. Rothstein reported that the Wisconsin statutes and rules do not directly address this issue and stated that funeral directors should only be advertising for the services they offer on their premises.

Funeral Directors – Conflict of Interest Question

Ms. Rothstein reported on possible conflicts of interest when funeral directors serve on a hospital or nursing home board. 445.12(3) stats. states that no licensed funeral director or operator of a funeral establishment may, directly or indirectly, solicit a funeral service or the right to prepare a dead human body for burial or transportation either before or after death has occurred, or pay or cause to be paid any sum of money or other valuable consideration for the securing of the right to do such work.

WFDA

2004 Annual OSHA Mandated Staff Training

Informational item only.

ICFSEB

Report from the AEFBSB Annual Meeting of April 23, 2004

Mr. Unbehaun reported on the AEFBSB Annual Meeting he attended in St. Louis on April 23, 2004. Some highlights of the meeting included:

- Implementation of a national database to check on whether or not a credential holder completed continuing education.
- Stressed the continuity of state executives attending AEFBSB's meetings.
- Removal of nuclear implants prior to crematory services.
- Requirement of Photo ID and videotaping of examination.

The Arkansas in 2005 101st Annual Convention is April 9-10, 2005 in Rogers, AR.

MOTION: Rick Unbehaun moved, seconded by J.C. Frazier, to nominate David E. Olsen to represent the Board at the Arkansas in 2005 101st Annual Convention on April 9-10, 2005 at Rogers, Arkansas. Motion carried unanimously.

The Conference Report

Informational item only.

BOARD MEMBER ACTIVITY

The Board members gave brief reports on activities undertaken since the last meeting.

VISITORS COMMENTS

None.

NEW BUSINESS

None.

MONITORING LIAISON

The Division of Enforcement requested a Board Liaison for monitoring issues.

MOTION: David Olsen moved, seconded by Bonnie Gift, to nominate Rick Unbehaun as the Board liaison for monitoring issues. Motion carried unanimously.

PRESENTATION OF PROPOSED STIPULATIONS BY DIVISION OF ENFORCEMENT OR ANY THAT MAY BE SUBMITTED AFTER MAILING OF THE AGENDA

CLOSED SESSION

MOTION: Rick Unbehaun moved, seconded by David Olsen, to convene to Closed Session to deliberate on cases following hearing (s. 19.85(1)(a), Stats.; to consider licensure or discipline (s. 19.85(1)(b), Stats.; to consider individual histories or disciplinary data (s. 19.85 (1)(f), Stats.; and, to confer with legal counsel (s. 19.85(1)(g), Stats. Roll Call Vote: Rick Unbehaun-yes; J.C. Frazier-yes; Bonnie Gift-yes; David Olsen-yes; Rosalie Murphy-yes; Connie Ryan-yes. Motion carried unanimously.

Open Session recessed at 12:10 p.m.

The Board deliberated on the Monitoring Report, the Case Status Report and Case Closings, Proposed Stipulations, Proposed Administrative Warnings, and Pending Applications.

RECONVENE TO OPEN SESSION

MOTION Connie Ryan moved, seconded by Bonnie Gift, to reconvene into Open Session at 1:15 p.m. Motion carried unanimously.

VOTE ON ITEMS CONSIDERED OR DELIBERATED UPON IN CLOSED SESSION, IF VOTING IS APPROPRIATE

MONITORING REPORTS JUAN BARQUET

MOTION David Olsen moved, seconded by Rosalie Murphy, to grant Juan Barquet full reinstatement of his funeral directors license. Motion carried unanimously.

CHIKETA HENDERSON

MOTION Rosalie Murphy moved, seconded by Dave Olsen, to deny an extension to Chiketa Henderson to pay \$700 in costs and refer Ms. Henderson back to the Division of Enforcement for violation of a Board order. Motion carried unanimously.

CASE CLOSINGS

03 FDR 016

MOTION Connie Ryan moved, seconded by David Olsen, to close case **03 FDR 016** for no violation. Motion carried unanimously.

03 FDR 014

MOTION Rosalie Murphy moved, seconded by Bonnie Gift, to close case **03 FDR 014** for prosecutorial discretion (P2). Motion carried unanimously.

04 FDR 001

MOTION David Olsen moved, seconded by Bonnie Gift, to close case **04 FDR 001** for prosecutorial discretion (P2). Motion carried unanimously.

01 FDR 033

MOTION Connie Ryan moved, seconded by J. C. Frazier, to close case **01 FDR 033** for prosecutorial discretion (P7). Motion carried unanimously.

STIPULATION

HARTSON FUNERAL HOME, GARY A. HARTSON, ROGER J. PALMER 01 FDR 033

Mark Hermann presented the proposed stipulation.

MOTION: David Olsen moved, seconded by Connie Ryan, to accept the Findings and Order, Proposed Stipulation and Final Decision and Order in the matter concerning **Hartson Funeral Home, Gary A. Hartson, and Roger J. Palmer 01 FDR 033**. Rick Unbehaun Case Advisor. Motion carried.

ADMINISTRATIVE WARNING

None.

PENDING APPLICATIONS

LASHANTAE K. GIBSON

MOTION Rosalie Murphy moved, seconded by Connie Ryan, that Lashantae K. Gibson appears in person before the Board. Motion carried unanimously.

GARY KIMBLE

MOTION Connie Ryan moved, seconded by Bonnie Gift, to request that Jacquelynn Rothstein correspond with Gary Kimble regarding his application for an embalmer's license stating that his application is pre mature for the Board to make a determination, as schooling is not completed. Motion carried unanimously.

ADJOURNMENT

MOTION: Bonnie Gift moved, seconded by Rosalie Murphy, to adjourn the meeting at 1:25 p.m. Motion carried unanimously.

NEXT MEETING: February 8, 2005

Suggested Agenda Items for February 8, 2005:

- Invite David O'Connell to the next Board meeting to discuss open cases for the next Board meeting.
- Hospice – amendment to rule regarding removal of a human corpse Form (DPH 5043)
- Amendments to HFS 136.03(2)